



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158251

PRELIMINARY RECITALS

Pursuant to a petition filed June 10, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 08, 2014, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly determined the Petitioner's FoodShare allotment for March 2014 forward.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer, Lead Economic Support Specialist Fair Hearings
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On February 10, 2014, the Petitioner's wife called the agency to add the Petitioner to her FoodShare case, stating that they are living together and eating together.

3. On February 11, 2014, the agency sent the Petitioner's wife a notice indicating that effective March 1, 2014, it was reducing his Foodshare benefits from \$189.00 to \$15.00. (Exhibit 8)
4. The Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on June 10, 2014. (Exhibit 1)
5. As of March 2014, Petitioner's wife received \$35.67 per month in child support, \$506.78 in Supplemental Security Income (\$423.00 Federal and \$83.78 State) and \$271.00 per month in Social Security Surviving Spouse Income (\$318 less \$47.00 withheld to satisfy an overpayment). (Exhibit 5, Exhibit 8; testimony of Petitioner's wife)
6. As of March 2014, the Petitioner received \$40.00 in other income; \$804.78 in Supplemental Income (\$721.00 Federal and \$83.78 State) and \$648.00 in Social Security Retirement Income (\$688 less \$40.00 withheld to satisfy an overpayment). (Exhibit 5, Exhibit 8; testimony of Petitioner's wife)

7. Total household income for March 2014 works out as follows:

\$35.67 child support
+ \$506.78 wife's Supplemental Security Income
+ \$271.00 surviving spouse Social Security Income
+ \$40.00 Petitioner's "other" income
+ \$804.78 Petitioner's Supplemental Security Income
+ \$648.00 Petitioner's Social Security Retirement Income
<hr/>
\$2306.23

8. The Petitioner pays \$40.00 for some type of insurance, \$545.00 per month in rent and \$50.00 in child support and he is responsible for paying utilities. (Id.)
9. Effective May 1, 2014, Petitioner's Federal Supplemental Security Income was reduced to \$53.00 per month, so the total of State and Federal Supplemental Security went down to \$136.78. (Exhibit 5) Thus, Petitioner's income as of May 2014 was:

\$35.67 child support
+ \$506.78 wife's Supplemental Security Income
+ \$271.00 surviving spouse Social Security Income
+ \$40.00 Petitioner's "other" income
+ \$136.78 Petitioner's Supplemental Security Income
+ \$648.00 Petitioner's Social Security Retirement Income
<hr/>
\$1638.23

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

The following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This was \$152 per month for assistance groups with 1-3 people, 7 *CFR* § 273.9(d)(1):

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The heating standard utility allowance (HSUA) was \$450 per month.

There was a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective March 1, 2014:

Gross Unearned Income	\$2306.23	Rent	\$545.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$1052.11
No Medical Expenses exceeding \$35			
Child Support	\$50.00	Excess Shelter Expense	\$0
<hr/>		<hr/>	
Net Income before shelter ded.	\$2104.23		
Excess Shelter Expense	- \$0		
<hr/>			
Net Income	\$2104.23		

Individuals, in a household of two, with a net income of \$2104.23 qualify for a FoodShare allotment of \$15.00 per month. *FSH* §8.1.2.

Thus, as of March 1, 2014, the agency correctly calculated the Petitioner’s FoodShare allotment.

According to the Social Security Data Exchange, Petitioner’s income did change effective May 1, 2014.

Thus, Petitioner's FoodShare allotment for May 1, 2014 forward works out as follows:

Gross Unearned Income	\$1638.23	Rent	\$545.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$718.11
No Medical Expenses exceeding \$35			
Child Support	\$50.00	Excess Shelter Expense	\$276.89
<hr/>			
Net Income before shelter ded.	\$1436.23		
Excess Shelter Expense	- \$276.89		
<hr/>			
Net Income	\$1159.34		

Individuals, in a household of two, with a net income of \$1159.34 still qualify for a FoodShare allotment of \$15.00 per month. *FSH* §8.1.2.

The petitioner should note that since both he and his wife are receiving Social Security Disability Income, they can submit any out of pocket medical expenses to the agency. Depending upon the amount of the expenses, they might help to increase the Petitioner's FoodShare allotment.

Petitioner argues that the FoodShare allotment is simply not sufficient. Unfortunately, the only deductions from gross income that are allowed are the ones discussed above.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's FoodShare benefits for March 2014 forward.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

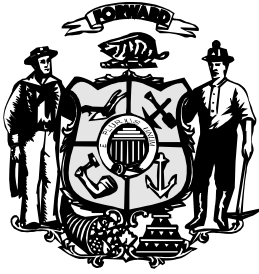
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of July, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 30, 2014.

Racine County Department of Human Services
Division of Health Care Access and Accountability